



**STATE BOARD OF EQUALIZATION  
STAFF LEGISLATIVE BILL ANALYSIS**

**DRAFT**

Date Amended:	<b>06/29/00</b>	Bill No:	<b>AJR 41</b>
Tax:	<b>Internet</b>	Author:	<b>Robert Pacheco &amp; Cunneen</b>
Board Position:	<b>Support</b>	Related Bills:	<b>AB 1784, AB 2188, AB 2412, SB 1377</b>

**BILL SUMMARY:**

This joint resolution would, among other things, memorialize the President and Congress to act favorably on federal legislation pertaining to an extension of the federal Internet Tax Freedom Act of 1998, if that legislation does not prohibit the imposition of existing nondiscriminatory taxes.

**ANALYSIS:**

Current Law:

*Federal law:* Under Title XI and XII of the Omnibus Appropriations Act of 1998, approved as H.R. 4328 by Congress on October 20, 1998 and signed as Public Law 105-277 on October 21, 1998, the federal "Internet Tax Freedom Act" was created to do the following:

- Prohibit state and local governments from taxing Internet access from October 1, 1998 until October 21, 2001.
- Prohibit state and local governments from imposing taxes that would subject buyers and sellers of electronic commerce to taxation in multiple states and protects against the imposition of new tax liability for consumers and vendors involved in commercial transactions over the Internet, including the application of discriminatory tax collection requirements imposed on out-of-state businesses through strained interpretations of "nexus."
- Establish a commission to study electronic commerce tax issues and report back to Congress after 18 months on whether electronic commerce should be taxed, and if so, how they can be taxed in a manner that ensures such commerce won't be subject to special, multiple, or discriminatory taxes.
- Specify that it is the sense of Congress that there should be no federal taxes on Internet access or electronic commerce.
- Declare that the Internet should be a tariff-free zone.

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*State law.* Under California law, Part 32 (commencing with Section 65001) of Division 2 of the Revenue and Taxation Code was added by AB 1614 (Ch. 351, Stats. 1998) to create the "California Internet Tax Freedom Act." This Act states legislative findings and declarations that no existing or future state taxes or state fees be imposed by the state in a discriminatory manner upon Internet access or online computer services, and specifies the following:

- For the period January 1, 1999 through January 1, 2002, no local government may impose, assess, or attempt to collect any tax or fee on Internet access, online computer services, or the use thereof, or a bit tax or bandwidth tax, except that prohibition does not include:
  1. Any existing tax, including any sales and use tax, business license tax, or utility user tax that is imposed in a uniform and nondiscriminatory manner, as specified.
  2. Any cable television franchise fee on online computer services or Internet access delivered over a cable television system, except as specified.

Proposed Law:

This proposed joint resolution makes Legislative findings and declarations regarding the Internet as a unique and powerful tool capable of revolutionizing the conduct of commerce, the complexity of the issue of domestic taxation of e-commerce, and opportunities related to the Internet, and would memorialize the President and Congress to act favorably on legislation pertaining to the extension of up to 5 years of the Internet Tax Freedom Act of 1998, if that legislation does not prohibit the imposition of existing nondiscriminatory taxes. It would also memorialize the President to seek a permanent global ban on tariffs on e-commerce and an international ban on special, multiple, and discriminatory taxation of e-commerce and the Internet.

**COMMENTS:**

1. **Sponsor and purpose of the bill.** The proposed joint resolution is sponsored by the author and is intended to continue a responsible tax policy regarding the taxation of the Internet so as to avoid any potential burdens placed on this evolving medium.
2. **The June 29, 2000 amendments** would memorialize the President and Congress to act favorably on legislation pertaining to an extension of *up to five years* of the federal Internet Tax Freedom Act of 1998. The previous version would have memorialized the President and Congress to act favorably on legislation pertaining to the *indefinite* extension of that Act.
3. **There is pending federal legislation to extend the federal Internet Tax Freedom Act through December 31, 2005.** Sen. No. 2775 was introduced June 22, 2000 by Senator Byron Dorgan. This federal legislation would, among other things, extend the federal moratorium on taxation of e-commerce until December 31, 2005. S. 2775 has been referred to the Senate Finance Committee.

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4. **Board supported both federal and state legislation.** The Board unanimously supported the 1998 federal "Internet Tax Freedom Act" as well as California's Internet Tax Freedom Act of 1998.
5. **Other Internet-related bills.** As of the date of this analysis, four other bills addressing the taxation of electronic commerce and the Internet have been introduced: AB 1784 (Lempert, et al.), which would extend California's Internet Tax Freedom Act until January 1, 2005; AB 2188 (Baldwin) would provide a use tax exemption for consumers purchasing goods from unregistered out-of-state retailers; AB 2412 (Migden and Aroner) would require related out-of-state "dot-com" companies to collect applicable use tax on sales to California consumers; and SB 1377 (Haynes) would provide a sales and use tax exemption for any sale or purchase made over the Internet.

**COST ESTIMATE:**

Enactment of this measure would not have any impact on the Board's administrative costs.

**REVENUE ESTIMATE:**

Enactment of this measure would have no impact on the State's or local jurisdictions' sales and use tax revenues nor would it impact the revenues derived from the imposition of the Emergency Telephone Users Surcharge or any other fee or tax administered by the Board.

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